

SENATE BILL NO. 192

INTRODUCED BY O'NEIL

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4 A BILL FOR AN ACT ENTITLED: "~~AN ACT REPEALING THE STATUTES REQUIRING~~ ELIMINATING THE
5 REQUIREMENT FOR A CERTIFICATE OF NEED FOR CERTAIN A HOME HEALTH CARE FACILITIES
6 AGENCY TO EXPAND ITS GEOGRAPHICAL SERVICE AREA; REVISING THE DEFINITION OF "HEALTH
7 CARE FACILITY" BY OMITTING NONFEDERAL HOME HEALTH AGENCY FROM THE DEFINITION;
8 ~~AMENDING SECTIONS 20-7-436, 33-31-111, 33-31-203, 33-31-221, 50-5-101, 50-5-104, 50-5-106, 50-5-207,~~
9 ~~AND 90-7-303, MCA; REPEALING SECTIONS~~ SECTION 50-5-301, 50-5-302, 50-5-304, 50-5-305, 50-5-306,
10 50-5-307, 50-5-308, 50-5-309, AND 50-5-310, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND
11 AN APPLICABILITY DATE."

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13 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

(Refer to Introduced Bill)

Strike everything after the enacting clause and insert:

Section 1. Section 50-5-301, MCA, is amended to read:

18 **"50-5-301. When certificate of need is required -- definitions.** (1) Unless a person has submitted an
19 application for and is the holder of a certificate of need granted by the department, the person may not initiate
20 any of the following:

21 (a) the incurring of an obligation by or on behalf of a health care facility for any capital expenditure that
22 exceeds \$1.5 million, other than to acquire an existing health care facility. The costs of any studies, surveys,
23 designs, plans, working drawings, specifications, and other activities (including staff effort, consulting, and other
24 services) essential to the acquisition, improvement, expansion, or replacement of any plant with respect to which
25 an expenditure is made must be included in determining if the expenditure exceeds \$1.5 million.

26 (b) a change in the bed capacity of a health care facility through an increase in the number of beds or
27 a relocation of beds from one health care facility or site to another, unless:

28 (i) the number of beds involved is 10 or less or 10% or less of the licensed beds, if fractional, rounded
29 down to the nearest whole number, whichever figure is smaller, and no beds have been added or relocated
30 during the 2 years prior to the date on which the letter of intent for the proposal is received;

1 (ii) a letter of intent is submitted to the department; and

2 (iii) the department determines that the proposal will not significantly increase the cost of care provided
3 or exceed the bed need projected in the state health care facilities plan;

4 (c) the addition of a health service that is offered by or on behalf of a health care facility that was not
5 offered by or on behalf of the facility within the 12-month period before the month in which the service would be
6 offered and that will result in additional annual operating and amortization expenses of \$150,000 or more;

7 (d) the incurring of an obligation for a capital expenditure by any person or persons to acquire 50% or
8 more of an existing health care facility unless:

9 (i) the person submits the letter of intent required by 50-5-302(2); and

10 (ii) the department finds that the acquisition will not significantly increase the cost of care provided or
11 increase bed capacity;

12 (e) the construction, development, or other establishment of a health care facility that is being replaced
13 or that did not previously exist, by any person, including another type of health care facility;

14 ~~(f) the expansion of the geographical service area of a home health agency;~~

15 ~~———(g)(f)~~ the use of hospital beds in excess of five to provide services to patients or residents needing only
16 skilled nursing care, intermediate nursing care, or intermediate developmental disability care, as those levels
17 of care are defined in 50-5-101;

18 ~~(h)(g)~~ the provision by a hospital of services for home health care, long-term care, or inpatient chemical
19 dependency treatment; or

20 ~~(i)(h)~~ the construction, development, or other establishment of a facility for ambulatory surgical care
21 through an outpatient center for surgical services in a county with a population of 20,000 or less according to
22 the most recent federal census or estimate.

23 (2) For purposes of this part, the following definitions apply:

24 (a) (i) "Health care facility" or "facility" means ~~a nonfederal home health agency~~; a long-term care facility;
25 or an inpatient chemical dependency facility.

26 (ii) The term does not include:

27 ~~(i)(A)~~ a hospital, except to the extent that a hospital is subject to certificate of need requirements
28 pursuant to subsection ~~(1)(h)~~ (1)(g);

29 ~~(ii)(B)~~ an office of a private physician, dentist, or other physical or mental health care professionals,
30 including chemical dependency counselors; or

1 ~~(iii)(C)~~ a rehabilitation facility or an outpatient center for surgical services.

2 (b) (i) "Long-term care facility" means an entity that provides skilled nursing care, intermediate nursing
3 care, or intermediate developmental disability care, as defined in 50-5-101, to a total of two or more individuals.

4 (ii) The term does not include residential care facilities, as defined in 50-5-101; community homes for
5 persons with developmental disabilities, licensed under 53-20-305; community homes for persons with severe
6 disabilities, licensed under 52-4-203; boarding or foster homes for children, licensed under 52-2-622; hotels,
7 motels, boardinghouses, roominghouses, or similar accommodations providing for transients, students, or
8 individuals not requiring institutional health care; or juvenile and adult correctional facilities operating under the
9 authority of the department of corrections.

10 (3) This section may not be construed to require a health care facility to obtain a certificate of need for
11 a nonreviewable service that would not be subject to a certificate of need if undertaken by a person other than
12 a health care facility."

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14 NEW SECTION. Section 2. Effective date. [This act] is effective on passage and approval.

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16 NEW SECTION. Section 3. Applicability. [This act] applies to a person who has submitted a letter
17 of intent or an application for a certificate of need received by the department of public health and human
18 services pursuant to Title 50, chapter 5, part 3, before, on, or after [the effective date of this act].

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